

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CATHAY BANK,

Plaintiff,

-v-

YOUNG HO SEO, et al.,

Defendants.

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No. 06 Civ. 15445 (LTS)(RLE)

MEMORANDUM ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff Cathay Bank (“Plaintiff”) brought this action to collect on obligations created by guaranties entered into by Defendants Young Ho Seo, S & C Market, Inc., and Ahns Mark, Inc. d/b/a Valley Supreme Supermarket (collectively “Defendants”). On October 29, 2007, this Court entered a default judgment against Defendants and contemporaneously requested that Judge Ellis conduct an inquest into damages, interest, attorney’s fees, and costs. Defendants failed to respond to Judge Ellis’ November 21, 2007, order that they respond to Plaintiff’s submission on the issue of damages. On June 22, 2009, Judge Ellis ordered Plaintiff to submit additional documentation in support of its assertions regarding damages, which Plaintiff submitted on August 6, 2009, in the form of affidavits and exhibits.

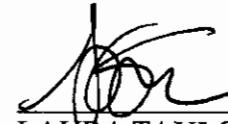
On December 16, 2009, Judge Ellis issued a Report and Recommendation (the “Report”) which recommended that Plaintiff be awarded judgment against Defendant as follows: (1) \$289,805.01 in damages, inclusive of interest through December 16, 2009; (2) \$15,753.80 in attorney’s fees and costs; and (3) post-judgment interest pursuant to 28 U.S.C. § 1961(a). Neither party has submitted objections to the Report, and the time allotted to do so has expired.

When reviewing the Report, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C.A. § 636(b)(1)(C) (West 2009). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” See Pearson-Fraser v. Bell Atl., No. 01 Civ. 2343, 2003 WL 43367, at *1 (S.D.N.Y. Jan. 6, 2003) (internal citations and quotation marks omitted). Judge Ellis’s Report reflects a thorough review of Plaintiff’s supplemental submissions as well as a careful analysis of the applicable law. The Court is satisfied that the report contains no clear error, and needs only update Judge Ellis’ calculations of interest to reflect the additional passage of time. Plaintiff’s damages, inclusive of interest through January 13, 2010, total \$290,976.81. To arrive at this figure, Judge Ellis’s calculation of interest at a per diem rate of \$41.85 was simply extended through January 13, 2010, adding 28 days to the 131 Judge Ellis used in his Report calculation. With this one alteration, the Court adopts the remainder of the Report in its entirety.

Plaintiff is hereby awarded judgment against Defendant as follows: (1) \$290,976.81 in damages, inclusive of interest through January 13, 2010; (2) \$15,753.80 in attorney’s fees and costs; and (3) post-judgment interest pursuant to 28 U.S.C. § 1961(a). The Clerk of Court is hereby requested to enter judgment accordingly and close this case.

SO ORDERED.

Dated: New York, New York
January 13, 2010



LAURA TAYLOR SWAIN
United States District Judge